

JURISDICTION OUTLINE

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I. TYPES OF JURISDICTION.

A. Subject Matter. Not waivable, consent cannot create jurisdiction where none exists.

B. Personal. Can be obtained by service within CO or Respondent's consent.

C. September 2002 CO Lawyer Article by Judge Angela Arkin.

II. DISSOLUTION, LEGAL SEPARATION, DECLARATION OF INVALIDITY

A. Subject Matter

1) Dissolution/Legal Separation – One party domiciled in CO for 90 days before filing. C.R.S. 14-10-106(1)(a)(I).

2) Declaration of Invalidity – One party domiciled in CO for 30 days before filing., C.R.S. 14-10-111(7).

3) If military, being stationed in CO pursuant to military orders, without more, insufficient. Viernes v. District Court, 509 P.2s 306 (Colo. 1973).

B. Personal. Service in CO, consent, OR:

1) Maintenance & Child Support

a) If one party continuously maintained CO domicile after other party moved away. C.R.S. 13-1-124(1)(e). (Long-Arm Statute).

b) UIFSA (Part V below)

2) Division of marital property located within CO. IRM Gercken, 706 P.2d 809 (Colo. App. 1985).

III. PATERNITY.

A. Subject Matter. Child or a parent lives in CO. C.R.S. 19-4-109(3)

B. Personal. Service in CO, consent, or intercourse within CO. C.R.S. 19-4-109(2).

IV. CHILD CUSTODY/PARENTING.

A. Subject Matter. UCCJEA.

1) Home state of child (6 months residence) at commencement, or within 6 months of commencement if one parent remains in CO. C.R.S. 14-13-201(1)(a).

2) No other state has jurisdiction, or other state with jurisdiction declined to exercise on grounds that CO is more appropriate, AND child and at least one parent has significant connection with CO other than presence. C.R.S. 14-13-201(1)(b).

3) All other courts with jurisdiction have declined to exercise it. C.R.S. 14-13-201(1)(c).

4) No other state has jurisdiction. C.R.S. 14-13-201(d).

5) Temporary emergency jurisdiction. Child is present in CO, and been abandoned, or necessary to protect child due to abuse against child, sibling or parent. C.R.S. 14-13-204(1). Duration:

a) If prior or pending proceedings in other state, until such time that a state with jurisdiction issues order.

b) If prior or pending proceeding in another state, only so long as is adequate to allow person seeking order to apply to other state.

B. Personal. Not required.

C. Applicability. UCCJEA jurisdiction required before any proceeding can determine parental responsibilities, including dissolution, legal separation, grandparent visitation, guardianship, dependency & neglect, paternity, etc. C.R.S. 14-13-102(4).

D. Continuing Jurisdiction until CO determines that child & parents no longer have continuous connection with state, or other state determines that child & parents no longer live in CO. C.R.S. 14-13-202.

V. CHILD SUPPORT/MAINTENANCE

A. Personal.

1) Personal service in CO not sufficient if party here solely to participate in child custody proceeding. C.R.S. 14-13-109(1).

2) Long-Arm Statute.

3) **UIFSA**, C.R.S. 14-5-201, *et seq.* Jurisdiction if:

(3) Previously lived in CO with child

(4) Previously lived in CO & paid support or prenatal expenses

(5) Child lives in CO as result of Respondent's acts/directives.

Respondent's abuse caused Petitioner to flee to CO, and Respondent knew/should have known it would drive her to CO. IRM Malwitz & Parr, 99 P.3d 56 (Colo. 2004).

(6) Child conceived as result of intercourse in CO.

(7) Other basis consistent with Constitution. See IRM Malwitz.

B. Continuing Exclusive Jurisdiction to Modify Order if any party or child still reside in CO, or all parties consent to it. C.R.S. 14-5-205(a).

VI. MILITARY RETIREMENT.

A. Subject Matter Jurisdiction Required. Personal jurisdiction over servicemember alone insufficient to divide military retirement.

B. Uniformed Services Former Spouses' Protection Act (USFSPA), 10 U.S.C. § 1408(c)(4) requires

1. Residence not due to military orders
2. Domicile, or
3. Consent.

C. USFSPA preempts state law, and CO lacks subject-matter jurisdiction to divide retirement absent domicile or affirmative conduct of servicemember demonstrating express or implied consent. In Re: Marriage of Akins, 932 P.2d 863 (Colo. App. 1997).

D. "Consent" is broad term, can be Co-Petitioner filing, or maybe even seeking parenting rights at Temporary Orders.